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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 CARL DEAN EDWARDS,
10
11 Petitioner,

12 v.

13 WARDEN FILSON, et al.,
14 Respondents.

Case No. 3:17-cv-00148-LRH-WGC

ORDER

15 In this dismissed action, petitioner has filed a document titled "Petition for C.O.A. from
16 Nevada Supreme Court's Summary Dismissal of Criminal Appeal 16-69746 and for Order to
17 Produce via Televideo from NDOC" (ECF No. 25). Respondents have filed an opposition (ECF
18 No. 27). Petitioner then has filed a document titled "Notice of Petitioner's Intent to Appeal from
19 U.S. District Court's July 1, 2019 Summary Dismissal of Nevada Supreme Court Appeal 16-
20 69746 and Pet. COA" (ECF No. 28). The court denies petitioner's motion.

21 **I. Procedural Background**

22 Petitioner initially filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 that
23 challenged two different judgments of conviction, each from a different state district court. ECF
24 No. 7. That petition was not permitted under Rule 2(e) of the Rules Governing Section 2254
25 Cases in the United States District Courts. The court directed him to file an amended petition that
26 challenged only one judgment of conviction. ECF No. 6.

27 Petitioner then filed an amended petition. ECF No. 8. The court directed petitioner to
28 show cause why the court should not dismiss the action as untimely under 28 U.S.C.

1 § 2244(d)(1). Petitioner filed a response. ECF No. 11. Petitioner did not persuade the court, and
2 the court dismissed the action as untimely on September 24, 2018. ECF No. 21. The copy of the
3 order that the court sent to petitioner was returned in the mail because he refused to accept it.
4 ECF No. 23.

5 II. Discussion

6 By the title of petitioner's petition for certificate of appealability (ECF No. 25), it would
7 appear that petitioner is trying to appeal the decision of the Nevada Supreme Court in Edwards v.
8 State, No. 69746.¹ If that is what petitioner is trying to do, then this court does not have appellate
9 jurisdiction over the Nevada Supreme Court. District of Columbia Court of Appeals v. Feldman,
10 460 U.S. 462, 476, 483 n.16 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-16 (1923).²

11 Respondents treat the petition (ECF No. 25) as a motion under Rule 60(b) of the Federal
12 Rules of Civil Procedure. The court agrees with respondents that petitioner has not demonstrated
13 any reason for relief from the judgment.

14 First, petitioner presents a history of this case that is inaccurate. He has listed several
15 items that he has filed and stated that he received no response from the clerk of this court or
16 counsel for respondents. However, petitioner has been refusing the mail that both the court and
17 counsel for respondents have sent him. Ex. A, B, C (ECF No. 27-1, 27-2, 27-3). The court
18 agrees with respondents that petitioner's refusal to accept mail is not a mistake, inadvertence,
19 excusable neglect, or an extraordinary circumstance that justifies relief under Rule 60(b).

20 Second, petitioner presents arguments that the trial judge did not allow certain testimony,
21 that trial counsel failed to present an argument for mitigation at sentencing, and that petitioner is
22 serving time in prison without accruing credits toward an earlier release. Petitioner presents
23 similar arguments in his notice (ECF No. 28). These are all arguments on the merits of

24 ¹ <http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=37960> (report generated July 18, 2019). This
25 case was a petition for extraordinary relief, filed directly with the Nevada Supreme Court. The Nevada Supreme
26 Court denied the petition on March 17, 2016, because petitioner should have filed a post-conviction habeas corpus
petition in the state district court. On June 20, 2019, more than three years later, the Nevada Supreme Court returned
unfiled motions to re-calendar appeals in that case and three other cases.

27 ² Petitioner could simply be using the wrong word, "appeal," to describe what he is trying to do in this action.
28 The method of obtaining relief from a state-court judgment of conviction is not an appeal from the last state-court
decision; it is a petition for a writ of habeas corpus. Despite his use of the word "appeal," petitioner has used the
correct habeas corpus forms in this court.

1 petitioner's claims, and they have no relevance to the question of timeliness. They do not provide
2 any basis for relief from the judgment.

3 The title of petitioner's "Notice of Petitioner's Intent to Appeal from U.S. District Court's
4 July 1, 2019 Summary Dismissal of Nevada Supreme Court Appeal 16-69746 and Pet. COA"
5 (ECF No. 28) has multiple errors that, for the sake of clarity, the court will address. First, the
6 court did not dismiss this action on July 1, 2019. The court dismissed this action on September
7 24, 2018. The court did not do anything in this action on July 1, 2019. The only thing that
8 occurred in this action on July 1, 2019 was the filing of respondents' opposition (ECF No. 27).

9 **III. Motion for Appointment of Counsel**

10 Petitioner has filed a motion for appointment of counsel (ECF No. 24). Because the court
11 has found that petitioner has not presented any reason for relief from the judgment, court also
12 finds that appointment of counsel is not warranted.

13 **IV. Certificate of Appealability**

14 To the extent that a certificate of appealability is necessary, reasonable jurists would not
15 find the court's determinations in this order to be debatable or wrong. The court will not issue a
16 certificate of appealability.

17 **V. Conclusion**

18 IT THEREFORE IS ORDERED that petitioner's "Petition for C.O.A. from Nevada
19 Supreme Court's Summary Dismissal of Criminal Appeal 16-69746 and for Order to Produce via
20 Televideo from NDOC" (ECF No. 25) is **DENIED**.

21 IT FURTHER IS ORDERED that petitioner's motion for appointment of counsel (ECF
22 No. 24) is **DENIED**.

23 IT FURTHER IS ORDERED that a certificate of appealability will not issue.

24 IT FURTHER IS ORDERED that the clerk of the court send petitioner a copy of the
25 docket sheet.

26 DATED this 5th day of August, 2019.

27 
28 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE